IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

FRIDAY, THE 14TH DECEMBER 2007 / 23RD AGRAHAYANA 1929

OP.No. 3111 of 2003(U)

PETITIONER:

LEELAMMA JOY, POOVANPATHIL,
PADEETATHIL, PADANILAM P.O., NOORANAD,
ALAPPUZHA DISTRICT.

BY ADV. SRI.JOSE JOSEPH (MANNAR)

RESPONDENTS:
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1. THE COMMERCIAL OFFICER, BSNL,
TELEPHONE EXCHANGE, KAYAMKULAM.

2. THE ACCOUNTS OFFICER, BHARAT SANCHAR
NIGAM LIMITED, OFFICE OF THE GENERAL MANAGER,
TELECOM DISTRICT, ALAPPUZHA.

3. THE GENERAL MANAGER, BHARAT SANCHAR
NIGAM LIMITED, OFFICE OF THE GENERAL MANAGER,
TELECOM DISTRICT, ALAPPUZHA.

4. K.R.RAJASEKHARAN NAIR, ARBITRATOR AND
AGM (MMII), OFFICE OF THE PRINCIPAL GENERAL
MANAGER, BHARAT SANCHAR NIGAM LIMITED,
KALATHIPARAMBU ROAD, COCHIN-16.

BY ADV. SRI.B.JAYASANKER, SC, BSNL

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 14/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP NO.5511 OF 2003 IN OP NO.3111/03 U

DISMISSED

14.12.2007 SD/= K.M. JOSEPH, JUDGE

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE BILL DATED 11.12.2001.

EXT.P2 TRUE COPY OF THE BILL DATED 11.2.2002.

EXT.P3 TRUE COPY OF THE APPLICATION DATED 28.2.2001 MADE BY THE PETITIONER TO THE 1ST RESPONDENT.

EXT.P4 TRUE COPY OF THE COMPLAINT DATED 20.12.2001 MADE BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXT.P5 TRUE COPY OF THE COMPLAINT DATED 4.1.2002 MADE BY THE PETITIONER TO THE 3RD RESPONDENT.

EXT.P6 TRUE COPY OF THE COMPLAINT DATED 23.3.2002 MADE BY THE PETITIONER TO THE 3RD RESPONDENT.

EXT.P7 TRUE COPY OF THE REPLY DATED 11.3.2002 MADE BY THE 3RD RESPONDENT.

EXT.P8 TRUE COPY OF THE REPLY DATED 19.3.2002 MADE BY THE THIRD RESPONDENT.

EXT.P9 TRUE COPY OF THE DETAILED COMPLAINT BEFORE THE CHIEF GENERAL MANAGER, GRIEVANCE AND COMPLAINTS CELL, BSNL, THIRUVANANTHAPURAM MADE BY THE PETITIONER.

EXT.P10 TRUE COPY OF THE JUDGMENT DATED 28.6.2002 OF THE HONOURABLE HIGH COURT OF KERALA IN OP NO.17603/2002.

EXT.P11 TRUE COPY OF THE AWARD DATED 26.12.2002 BY THE FOURTH RESPONDENT.

RESPONDENTS' EXHIBITS:

ANNEXURE A1 PRINT OUT OF CALL DETAILS FROM 3.10.01 TO 30.11.01 FOR THE TEL. NO.387247.

EXT.R1(A) TRUE COPY OF THE STATEMENTS MADE BY THE PETITIONER BEFORE COMMERCIAL MANAGER, BSNL, KAYAMKULAM IN HER LETTER DATED 20.12.2001 ADDRESSED TO THE 2ND RESPONDENT.

EXT.R1(B) TRUE COPY OF THE WRITTEN BRIEF DATED 31.10.02 BY THE PETITIONER SUBMITTED TO THE FOURTH RESPONDENT.

OP NO.3111/03 U

EXT.R1(C) TRUE COPY OF THE LETTER DATED 30.5.2002 TO THE PETITIONER.

// TRUE COPY//

PS TO JUDGE

K. M. JOSEPH, J.

O.P NO. 3111 OF 2003 U

Dated this the 14th December, 2007

JUDGMENT

Petitioner has approached this Court challenging Exts.P1 and P2 Bills and Ext.P11 award. Exts.P1 Bill was issued for the months October, 2001 and November, 2001. Ext.P2 Bill was issued for the months December, 2001 and January, 2002. Ext.P11 is the Award passed by the Arbitrator under Section 7B of the Indian Telegraph Act. By Ext.P11, the Arbitrator has not accepted the case of the petitioner that the petitioner had submitted Ext.P3 application dated 28.2.2001 for disconnection of the STD/ISD facility. However, the Arbitrator, considering the humanitarian aspects, namely that the petitioner and her son are the only occupants of the premises, has allowed some rebate on the disputed bills.

2. Learned counsel for the petitioner submits that the petitioner had indeed submitted Ext.P3 application. He would also submit that the excessive bills issued vide Exts.P1 and P2

are not supportable. He would further submit that no opportunity was given to the petitioner to adduce evidence.

3. I heard the learned counsel appearing for the parties. I find no merit in the challenge to Exts.P1 and P2 bills. Petitioner had not shown that she had given Ext.P3 application as claimed by her. The Arbitrator has considered the question. Petitioner was represented by counsel.

4. On a perusal of Ext.P9, I find that the authority has found that the physical verification reveals that all the calls were originated from the petitioner's telephone and she is liable to pay the bills. Having regard to the jurisdiction of this Court under Article 226 of the Constitution of India, I do not see any reason at all to interfere with the impugned proceedings. Accordingly, the Writ Petition fails and it is dismissed.

K. M. JOSEPH, JUDGE

kbk.

K. M. JOSEPH, J.

O.P NO. 3111 OF 2003 U

JUDGMENT

14th December, 2007